

# **WILLIAMSBURG PLANNING COMMISSION MINUTES**

**Wednesday, May 16, 2007**

The regular monthly meeting of the Williamsburg Planning Commission was held on Wednesday, May 16, 2007, at 3:30 p.m. in the Council Chambers at the Stryker Building, 412 North Boundary Street.

## **CALL TO ORDER and ATTENDANCE**

Chairman Pons called the meeting to order. Present in addition to Mr. Pons were Commissioners Kafes, Young, Joseph, Hertzler, McBeth and Driscoll. Staff members present were Planning Director Nester, Deputy Planning Director Murphy, Zoning Administrator Rhodes, City Attorney Phillips and Secretary Scott.

## **MINUTES**

Mr. Hertzler moved that the minutes of the April 18 regular meeting be approved as submitted. Mrs. McBeth seconded the motion which carried by roll call vote of 7-0.

Recorded vote on the motion:

Aye: Pons, Kafes, Driscoll, Hertzler, Young, McBeth, Joseph

Nay: None

Absent: None

Chairman Pons reminded the audience of the use of speaker cards.

## **CONSENT AGENDA**

There were no cases on the Consent Agenda this month.

## **PUBLIC HEARINGS**

**PCR #07-017: Request of Richard and Pamela Arms to amend the Zoning Ordinance to add an offstreet parking requirement for mini-storage warehouses [Sec. 21-707(e)(3.01)]. A base requirement of 0.05 parking spaces for each storage unit is proposed. The Commission recommended approval of the amendment by a vote of 7-0.**

**PCR #07-015: Request of Richard and Pamela Arms for a special use permit to allow ministorage warehouses at 5151 thru 5241 Mooretown Road. The project consists of three buildings of four stories to be constructed in three phases. The properties are zoned B-2 Corridor Business District. The Commission recommended approval of the special use permit with contingencies by a vote of 6-1.**

Deputy Planning Director Murphy reviewed the request for a special use permit referencing her memorandum dated May 10, 2007 and noted the related request for an amendment to the Zoning Ordinance will be discussed simultaneously. She said the special use permit is for a 671 unit mini-storage facility that consists of three four-story

buildings; the buildings will be constructed in three phases. Mrs. Murphy noted the applicant is also requesting a zoning text amendment to establish off-street parking requirements specifically for mini-storage warehouses. Although the project is not located in an Architectural Preservation District, elevations have been provided that show brick, cementitious siding and false windows which give the appearance of a hotel or apartment building. Currently there are ten rental units on the property which will be demolished. Among staff recommendations are two rows of shrubs at least 24 inches in height, and 3 inch caliper trees to be installed to screen the site from Mooretown Road. Also recommended is limited lighting on the ends and sides of the buildings on the Mooretown Road side, no building mounted lights or up-lighting of the buildings along the CSX railroad side of the buildings and the mounting height of the lights should be limited to between the first and second floors of the buildings. Mrs. Murphy noted similar size and height (45 feet) for several hotels along Richmond Road, e.g., Hilton Gardens, Springhill Suites and the Residence Inn. Mrs. Murphy concluded her comments by saying the owners/applicants are present.

Mrs. McBeth questioned the recommendation for no lighting along the CSX side and stated that some lighting around the perimeter of the project would be reasonable for safety.

Chairman Pons opened the public hearing.

**Rick Arms**, owner/applicant, gave a brief history of the property noting he and his father purchased the lots in 1979 and 1994. He said they have been working with the City over five years to find the best use of the property; redevelopment of the land has been challenging because the strip of land is long and narrow and backs up to the railroad tracks. Although they have considered many uses of the property, their research has concluded the only practical option is for a self-storage facility. Mr. Arms said the proposed use of the property has the lowest demand on services such as traffic, water and parking.

There being no additional comment the public hearing was closed.

Mr. Joseph said that because the project will be overlooking the Richmond Road corridor, he is concerned with the height of the buildings. He asked if the applicant could set the buildings back more and reduce the buildings to three stories, and still be economically feasible. He added that if banners are not prohibited they should be. Mrs. Murphy responded that the City does prohibit banners except for a Grand Opening banner which can be displayed for ten days.

Mr. Hertzler stated that he supports the approval of the special use permit since the buildings are reasonably set back from Richmond Road. He added that with this project the City has the opportunity to exhibit jurisdictional cooperation and we need to try to be compatible. In response to his question about James City County's plans for the adjacent Anvil Campgrounds, Mrs. Murphy said she has not received any communication from them.

Commission members discussed the distance between Richmond Road and the project and materials proposed. Mr. Pons noted that he had driven the site and does not think it will be too obtrusive from Richmond Road. Mr. Joseph said his concern is not so much for the new buildings, but for their maintenance as they age and because the taller the building the tougher the maintenance. He added that in comparison motels and hotels are regularly renovated.

Mrs. Murphy noted that final site plans will include elevations for the other buildings which are to be similar to the first building. Mr. Joseph asked the applicant if it would be economically possible to reduce the buildings to three stories. Mr. Arms responded that with the additional construction and materials costs, the feasibility study suggested four stories. He suggested the City water tower, planned to be across Mooretown Road from this project, will draw more attention than his project.

Mr. Kafes moved that the Commission recommend the special use permit for a 671 unit mini-storage warehouse be approved with staff recommended contingencies and the addition of "except for lighting required for safety purposes" to the eighth contingency.

1. Obtain CSX permission to bore the waterline under the train track.
2. Obtain York County approval to receive the sanitary sewer flows.
3. Obtain VDOT approval for the entrances to the project.
4. Route all roof drainage into the BMP.
5. Abandon the existing septic and well water systems to Virginia Department of Health standards.
6. Construct the exterior elevations in accordance with the elevations provided for Building 1 and the colored renderings. Materials shall be brick, cementitious siding and either aluminum clad or vinyl clad windows. The use of metal, vinyl or aluminum siding shall not be permitted.
7. Final exterior elevations of all buildings shall be approved by Planning Commission with the final site plan. The exterior elevations of all buildings must be in keeping with the design of Building 1, which has been submitted with this application.
8. Building mounted lighting being limited to the Mooretown Road elevation and sides of the buildings with no light fixtures being mounted or up-lighting the building from the CSX railroad side of the buildings except for lighting required for safety purposes. Also, the building mounted fixtures shall be located between the first and second floors of the buildings.
9. Signs for the project must have a dark opaque background with light lettering.
10. No signs shall be permitted on the CXS Railroad side of any building.
11. Additional plant material must be submitted with the final site plan to include two rows of shrubs at least 24 inches in height and three inch caliper trees to screen this project from Mooretown Road.
12. Install a black aluminum decorative fence around the entire property to include the CSX Railroad tracks which is an entrance corridor into the City.
13. A side yard setback of at least 25 feet must be maintained between the building and James City County as shown on the preliminary site plan.

Mr. Young seconded the motion.

Mr. Joseph reiterated his concern with the height of the buildings, but Mr. Pons noted the applicant's previous statement about the economic feasibility study. Mr. Driscoll pointed out the applicant's willingness to not only revise the proposed materials at the Site Plan Review committee's request, but also to pay for the water line hook up that runs under the railroad tracks. Mr. Kafes said the fiscal impact on the City of Williamsburg needs to be noted, i.e. the increased taxes received from four versus three stories.

Mrs. McBeth asked if the zoning amendment should be voted on before the special use permit and Mr. Phillips confirmed that it should. Mrs. McBeth moved that the Commission recommend approval of, **PCR #07-017**, the zoning amendment to establish a parking requirement for mini-storage warehouses of 0.02 for each storage unit, plus two spaces for an office and two spaces for an on-site caretaker's residence (if provided). Mr. Kafes seconded the motion which carried by roll call vote of 7-0.

Recorded vote on the alternate motion:

Aye: Driscoll, Hertzler, Young, McBeth, Kafes, Joseph, Pons

Nay: None

Absent: None

Mr. Kafes called for the vote on **PCR #07-015**.

Recorded vote on the alternate motion:

Aye: Driscoll, Hertzler, Young, McBeth, Kafes, Pons

Nay: Joseph

Absent: None

Chairman Pons said he will recuse himself from the following case because of his affiliation with the motel industry; he turned the gavel over to Vice-Chairman Hertzler.

**PCR #07-018: Consideration of changes to the Zoning Ordinance regulations for hotels/motels [Sec. 21-2 Definitions (*Hotel/motel* and *Visitor*); Sec. 21-605 (Rental of bedrooms to visitors); and Sec. 21-618 (Rooming facilities for exchange visitors)]. The Commission recommended approval with modifications by a vote of 6-0-1.**

Mr. Nester presented the changes to the regulations referencing his memorandum dated May 9, 2007. He noted the Commission has discussed options for the regulations at its March 28 work session and at the April 18 regular meeting. It was decided to hold a public hearing regarding the definitions of *Hotel/motel* and *Visitor* after hearing public comments made at both meetings. Mr. Nester said the proposed amendment is to revise the hotel/motel definition to add three exemptions to the 30 consecutive days limit, based on the Commission's past discussions. As part of the preparation for this recommended amendment he said that both he and Mrs. Murphy have done extensive inventory of City motel/hotels; he summarized those findings which

show that only the Residence Inn and Sheraton Four Points have a substantial number of units with kitchens as defined by the proposed ordinance.

Mr. Nester noted that Commission members have a letter in their information packets from Pat Bell, Executive Director of the Hotel/motel Association, in which the Association asks that the definition of an extended-stay property be as follows: "All rooms require a separate dining area with an area for food preparation, a microwave and a refrigerator not less than 2.7 cu. ft. with a freezer to be .2 cu. ft. or larger." In her letter Ms. Bell also stated the Association's position on taxation: That the City's tax code should mirror that of the state; anyone staying in a hotel/motel for more than ninety (90) consecutive days is tax exempt. Additionally, given that the \$2.00 occupancy tax is collected entirely for promotion, it should only be collected for the first 30 days of a guest's stay.

Mr. Kafes asked why dependents are not included in the first exemption which states that employees who work at least 20 hours per week for the hotel/motel are exempt from the 30 consecutive day limit, and can stay in rooms or suites for successive 30-day periods with no maximum length of stay. Dependents and guests are not covered by this exemption. Mr. Nester responded that condition mirrors that in the exchange visitors. The idea was to make housing available for employees, not for other family members. Mr. Young also questioned the elimination of an on-site manager's family members; their presence could be a positive. He added that not even all single family residences have all of the appliances required by definition of kitchen; the need for a dishwasher and range should be removed.

Mrs. McBeth noted that the Commission has just approved a mini-storage facility to house an on-site manager, and although she understands the need to prevent large numbers of employees with families from living there, is there another avenue for the hotel/motel? Mr. Nester agreed it is reasonable to allow an on-site manager.

Vice-Chairman Hertzler opened the public hearing.

**Pat Bell**, Executive Director of the Hotel/motel Association, said she applauds the Planning Commission and planning staff for working through this issue and commends their diligence. She reiterated the Association's request to remove the dishwasher and range from the required appliances and have only the refrigerator and microwave required. The majority of people served in extended-stay facilities are business people who require very little in the way of meal preparation. In answer to Mr. Kafes' question of the need for a sink, she clarified that a sink should also be required, a bar sink.

**Frank Tsutras**, 6264 Glenwilton Lane, commended Mr. Nester and Mrs. Murphy on the excellent 24 page report on hotel/motels. He said, however, that there should be nothing about 30 days; people in business can successfully run their businesses without that regulation.

He distributed to Commissioners the first quarter lodging report prepared by Smith Travel Research, a leading lodging industry research company, noting that once again

Williamsburg had an occupancy rate of only 27.3%. He pointed out that the next lowest occupancy rate is in the 40<sup>th</sup> percentile and stated there must be a means by which elected and appointed officials could get together with owners/operators to overcome this embarrassing situation. He added that he fully supports the Hotel/motel Association's position. He concluded his comments by commending Mr. Pons for recusing himself from this case and Mr. Hertzler for handling the Chairmanship in a fair manner.

**Bob Hershberger**, Executive Vice-President of the Williamsburg Chamber of Commerce and Tourism Alliance, said he supports the exemptions in PCR #07-018 except he would like to have the requirement for a dishwasher and range removed. He said he applauds the Commission's efforts to find a solution to the issue.

**Nanci Bond**, 416 Suri Drive, noted her letter previously sent to Commissioners. She asked if the hotel/motel owners realize that because of the thousands of near-by timeshares, the market is substantially different. If timeshares are peeling away tourists from motel and hotel rooms, what happens to the room tax? If hotel/motels are allowed to serve as long-term, temporary housing, will students be allowed to rent long-term stay rooms? Will there be any limit to the number of people permitted to inhabit a room?

Mrs. Bond continued her comments by saying the proposal today seems to invite great confusion and unenforceable standards. Her concern is the protection of the neighborhood, the revenue stream and the good reputation of the City. Although the set of revisions seems to protect the room tax, what is the mechanism for obtaining these monies if nothing in the City is enforceable? In conclusion Mrs. Bond asked that the Commission make sure any changes carefully protect our industry AND our neighborhoods. Each thrives on quality; each declines when quality diminishes.

**Scott Krasche**, 327 #7B Merrimac Trail, representing the Residence Inn and Springhill Suites, support the Hotel/motel Association's position, and asks that the dishwasher and range not be required appliances. He added that the consumer needs to have options.

**Dean Canavos**, 802 Capitol Landing Road, representing the Capitol Pancake House, suggested hotel/motel owners are capable of regulating their own property. Staffing in the hospitality industry during the peak season is a real problem, and the hotel/motel owners need this opportunity to fill vacant rooms. Transportation is the big issue, housing needs to be within walking distance of jobs.

**Chris Canavos**, part owner of 802 Capitol Landing Road, the Capitol Pancake House, said he supports the Hotel/motel Association's position. He said he has been here for more than 30 years and he's just trying to make a living serving the community.

**David Kranbuehl**, 201 Harrison Avenue, stated that he has been to all the meetings and has put in a lot of time on the issues. He suggested the Commission vote on the three exemptions independently. Why not have the immediate family live on-site with an employee; this would allow owners/managers on-site at all times. He suggested that

only one renewal of the 30 day period be permitted and for an additional option, a special use permit would be necessary. We need to protect the hotel/motel industry, get pictures of a hotel/motel in operation and if it continues to limp along renting to folks with families, maiming, police reports, City of Williamsburg has no control. Some will have to go, some will have to renovate. The special use permit can be renewable every two to three years; this would give us leverage. The Commission is not the Supreme Court and is not here to overrule a decision already made by City Council. We shouldn't be monopolizing City staff time with personal interests. He suggested that this be dropped. He said he is in sympathy with those who need workers and suggested an additional International Housing Village be established and transportation, education on the area and safety guidelines be provided.

Mr. Kranbuehl concluded his comments by saying we need to deal in a straight-forward manner and remove exemption #3 that states "15% of the remaining rooms and suites not covered by items 1 and 2 above may be occupied for successive 30-day periods with a maximum length of stay of 180 consecutive days. These rooms or suites could be occupied by exchange visitors, and would not be subject to the specific exchange visitor regulations in Sec. 21-618."

**David Bryhn**, owner of the White Lion and Rochambeau Motels, agreed with Mr. Tsutras' comments made previously. He said he dealt with J-1 exchange visitors from March through September, 2006. Stove tops can be a fire hazard. He stated that police officers and other City of Williamsburg officials laugh at what he has been put through. He just wanted to provide a service to the City.

**Debbie Cobb**, 100 Shaindel Drive, said her family owned and operated a ladies shop for 35 years and they retained their employees by making it a wonderful place to work. Increase salaries, provide benefits; it's not up to us to breathe new life into a business; if they can't make accommodations, they need to close their doors.

**Ratnam Patel**, 217 Sir Thomas Lunsford, said he owns three motels in the City and would not make them into dog houses. 15% of rooms is less than 15 rooms at many hotels. The comment that "J-1 visitors need to find other housing is unrealistic; many of the students at the College of William & Mary can't find housing either. We need to support this amendment.

**David Bryhn** pointed out that usually leases have to be signed for a period over four months, for six months or one year. We need more housing for the workers we depend on.

There being no additional comment the public hearing was closed.

Mr. Kafes suggested the 30 day rule be abolished for these reasons:

- Difficult to enforce
- Imposes a competitive burden on businesses
- Easily avoided via the check-in/check-out process

- The rule gets in the way of economic and societal needs

He said the definition of kitchen should remain as proposed; it's easy to retrofit. Eliminate the 30 days, support housing a manager's family.

Mrs. McBeth asked Mr. Nester if it is possible to vote on the elimination of the 30-day rule since it was not specifically advertised, and Mr. Nester confirmed that it would have to be re-advertised.

Mr. Driscoll said we need to have J-1 visitors in certain areas in order to efficiently provide transportation and other services. He suggested it's the borderline homeless who are drawing on the City's services. Put upscale condominiums or townhouses there and if not economically feasible they will move out. We need to find a viable way to remove dilapidated motels. Mr. Joseph suggested a guide book be developed with the Commission to review.

Mr. Driscoll stated that we need to look at the large picture and consider what we want these areas to look like in two to five years. We need a mechanism for dealing with dilapidated structures.

Mrs. McBeth again raised Mr. Kranbuehl's suggestion that we vote on the exemptions individually. Mr. Nester said that although there are three exemptions it is only one ordinance. However the Commission could take a straw vote on each item.

Mr. Kafes said we need to keep the definition of kitchen. Mr. Hertzler said that from experience he knows retrofitting is not easy.

Mr. Joseph suggested the Commission accept this and move forward; don't define kitchen.

Kafes moved that the 30-day rule be modified as suggested by staff with the addition that a room or suite can be rented by an owner/manager and his dependents with no maximum stay noted. He added that the attempt to define "kitchen" is too complicated.

There was no second to Mr. Kafes' motion.

Mr. Joseph moved that the 30-day rule be modified as suggested by staff with the addition that a room or suite can be occupied by an owner/manager and his dependents with no maximum stay noted, and that the definition of "kitchen" will be determined by this body at a later date.

City Attorney Phillips noted there are two motions on the floor. The first had no second but was not closed so it is still active. If the parties involved in the motion agree, Mr. Kafes' motion can be voted upon.

Mr. Joseph said he will agree with Mr. Kafes' motion, that the 30-day rule be modified as detailed in the proposed ordinance, with the addition that a room or suite can be



occupied by an owner/manager and his family with no maximum stay noted. Mrs. McBeth seconded the motion which carried by roll call vote of 6-0-1.

Recorded vote on the alternate motion:

Aye: Driscoll, Hertzler, Young, McBeth, Kafes, Joseph  
Nay: None  
Abstain: Pons  
Absent: None

Mr. Driscoll noted the comments made previously by motel adjacent property owners, that they do not want J-1 Visitors in their area. Mr. Hertzler agreed that comments have been made and City Council has made its decision, however, the reason the Commission is discussing it again is that new issues that need to be explored have been identified. He added that he is all for giving people flexibility until they prove additional guidelines are needed. Greater flexibility is needed with the definition of "kitchen". Mr. Hertzler said he would like to see the 30-day rule eliminated and maybe next year it can be revisited.

Mr. Young suggested the key is that we do need to define "kitchen". Mr. Joseph suggested the Commission revisit the issue in one year and Mr. Young agreed that would be okay if there is new or better information.

Mrs. McBeth stated that clarification of the definition of kitchen comes from our desire to allow a current extended-stay motel to operate legally. We need to allow the Residence Inn and Springhill Suites to have long-term guests.

Vice-Chairman Hertzler returned the gavel to Chairman Pons.

## **OPEN FORUM**

Chairman Pons opened the Open Forum portion of the meeting encouraging comments from the audience on any topic. Mr. Pons called first on those in the audience who had completed speaker cards.

**Frank Tsutras**, 6264 Glenwilton Lane, suggested the Commission does not know what it is doing and that members should get together with representatives of all involved in the motel/hotel issue and come up with a more positive approach.

**David Bryhn**, owner of the White Lion and Rochambeau Motels, stated that he is trying to get out of the motel business; he is trying to sell the properties. However, potential buyers don't want to build what is permitted there. He said that as long as people have a permanent address elsewhere, we should welcome them. Mr. Bryhn concluded his comments by asking "What happened to free enterprise?"

There being no additional comment the Open Forum was closed.

## **SITE PLANS AND SUBDIVISIONS -- None**

**OLD BUSINESS -- None**

**NEW BUSINESS**

Meeting Guidelines

Noting that the only guideline for public hearings the Commission presently follows is the time limit for speakers. Mr. Kafes asked that at the next work session rules/guidelines be discussed regarding conduct at Planning Commission public hearings.

Planning Commission Communication with City Council

Mr. Driscoll asked if there is any meeting with City Council planned, such as the breakfast meetings held in past years. Mr. Nester responded that these meetings are initiated by Council and there is nothing scheduled at this time.

Chairman Pons stated he will talk with Mayor Zeidler regarding the possibility of holding a joint meeting and report back to the Commission.

**OTHER**

Revised Schedule for Comprehensive Plan Implementation

Mr. Nester pointed out the Revised Schedule for Comprehensive Plan Implementation that Commissioners received in their information packets. He said the schedule goes through March, 2008 noted the schedule is not as tightly set as the previous schedule. There are no public hearings scheduled for either August or December, 2007. The Commission will make a recommendation to City Council at their April 10, 2008 meeting and Council will hold a public hearing at their May 8, 2008 meeting.

**INFORMATION ITEMS**

Report from City Council  
Planning Department Monthly Report  
Monthly Financial Statement

There being no further business the meeting adjourned at 6:00 p.m.

Douglas Pons, Chairman  
Williamsburg Planning Commission

**PUBLIC HEARINGS SCHEDULED FOR JUNE 20 , 2007**

None